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General Assembly

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Sixty-eighth session
Item 69 (b) of the preliminary list*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Letter dated 24 June 2013 from the Chargé d'affaires a.i. of the Permanent Mission of Honduras to the United Nations addressed to the Secretary-General

I have the honour to submit to you the analysis of the formulation and implementation of international migration and development policies requested of Member States in General Assembly resolution 67/172 of 20 December 2012 (see annex). The analysis was prepared by the General Directorate for Migration and Aliens.

This report was prepared for inclusion in the final document of the United Nations General Assembly at its sixty-eighth session, concerning the protection of migrants.

(*Signed*) Marco A. **Suazo**
Deputy Permanent Representative
Chargé d'affaires a.i.

* A/68/50.

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Annex to the letter dated 24 June 2013 addressed to the Secretary-General from the Chargé d'affaires a.i. of the Permanent Mission of Honduras to the United Nations

Letter dated 6 June 2013 addressed to the Secretary of State of the Ministry of Foreign Affairs from the Director General of the General Directorate for Migration and Aliens on the formulation and implementation of migration and development policies

This is in response to your letter No. 570-DGAE-13 dated 30 May 2013, and submitted to Attorney Carlos Africo Madrid, Secretary of State in the Ministry of the Interior and Population, which forwarded to us the request of the United Nations General Assembly to the Secretary-General to submit to it a report containing an analysis of how a human rights perspective can enhance the design and implementation of international migration and development policies.

As a State party, Honduras is therefore requested to submit all relevant information relating to the implementation of General Assembly resolution 67/172 concerning the protection of migrants. In that regard, we wish to declare the following:

The General Directorate for Migration and Aliens is the entity mandated by law to regulate and ensure the functioning of the migration policy of the State; to monitor and authorize the entry and exit of Honduran and foreign nationals and the stay of foreign nationals in Honduran territory; and to issue immigration and travel documents.

The work of officials of the General Directorate for Migration and Aliens is currently governed by the Constitution of the Republic and the Act on Migration and Aliens, a legal instrument adopted by the National Congress of the Republic on 12 December 2003.

Article 59 of the Political Constitution of Honduras literally states that "the human person is the supreme purpose of the society and of the State. Everyone has an obligation to respect and protect the human person."

As a national security institution, the General Directorate for Migration and Aliens is involved in various activities in coordination with other institutions. It provides support in investigating and prosecuting offences relating to trade and trafficking in migrants; protects unaccompanied foreign minors; assists returning Honduran migrants; supports the Secretariat of Foreign Affairs in repatriating injured migrants or the remains of migrants deceased abroad; and assists migrants whose migratory status is irregular, providing shelter, food, health and communication services to the respective diplomatic or consular offices of their home countries, documentation and prompt resolution of migration cases, and services for aliens.

Likewise, all administrative measures carried out by the authorities of the General Directorate for Migration and Aliens, or by any other institution involved in the process of resolving migratory and other related issues, are executed in strict conformity with the law, taking full account of the inviolability of the human rights of the migrant, without regard to nationality, language, religion, race, gender, etc.

Moreover, we believe that the United Nations has at its disposal a variety of legal instruments that have been adopted and endorsed by Member States with a view to protecting and respecting the human rights of migrants in general, given that all migrants are vital to the development of their countries of origin and destination. However, many Member States fail to abide by these provisions and, instead, enact migration, labour and other forms of legislation that violate the human rights of migrants and their families, adopting such measures as mass deportations, prohibitions on migrant labour, criminalizing migration offences in certain legal systems in the full knowledge that they are administrative offences, separating nuclear families (mother and child from the spouse), paying salaries below the established scales, physical and moral mistreatment; humiliation and attacks on personal dignity, discrimination and violation of the rights of migrants in criminal, administrative and judicial proceedings, and open expressions of xenophobia on the part of migration authorities and police, inter alia.

The dignity of the human being is inviolable.

In order to guarantee the rights and freedoms recognized in this Constitution, the Office of the National Commissioner for Human Rights was established.

The organization, prerogatives and powers of the National Commissioner for Human Rights will be the subject of a special law.

The Constitution of the Republic of Honduras also establishes a wide range of civil, political, individual and all other human rights, which are exercised by Honduran and foreign nationals regardless of their migratory status, in strict compliance with the administrative regulations that govern a State that operates under the rule of law.

As a State, Honduras has and will continue to respect the human rights of migrants, given that the current Act on Migration and Aliens is rather open in terms of respect for the rights of migrants, to the point that even if a person does not meet the requirements to obtain one of the forms of migration status set forth in the Act, he or she has the opportunity to opt for a migration status for "humanitarian reasons". That status allows the person to continue protecting their minor children or spouse who is a Honduran national, gain access to health care and education and enjoy all the rights granted in the Constitution and domestic legislation under the same conditions as nationals, regardless of their migratory status; the State believes that the dignity of the person outweighs any other legal consideration.

In the international arena, Honduras is aware of the obligations set out in international conventions, treaties and covenants ratified by the State concerning the rights and protection of migrants. Responsibility for the implementation of those instruments and the execution of the required processes set out in the international instruments mentioned in General Assembly resolution 67/172, in addition to implementing various conventions on migrants in general and on their families, falls to various State institutions.

In light of the foregoing, we would very much welcome the establishment of special commissions to monitor the actions taken by States parties to respect, in the truest sense of the word, the human rights of migrants, regardless of their migratory status, race, religion or other considerations.

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General Assembly

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Sixty-eighth session
Item 100 (c) of the preliminary list*
Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly

United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific

Report of the Secretary-General

Summary

The present report provides an overview of the activities undertaken by the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific during the period from July 2012 to June 2013. During this period, the Regional Centre continued to promote dialogue and confidence-building in the region and beyond by organizing its two annual international conferences on disarmament and non-proliferation issues, which served as important forums to explore solutions to key challenges in those fields. The Centre also undertook projects to build national capacity to better combat the illicit trade in small arms and light weapons as well as to facilitate dialogue among Member States in the region on the Arms Trade Treaty in advance of its final negotiations. Additionally, in its efforts to strengthen its outreach and advocacy activities through peace and disarmament education, the Centre organized events attended by university and high school students as well as an art for peace competition for hundreds of schoolchildren in a post-conflict country. The Centre has strengthened communications and outreach efforts with a view to better engaging a full range of stakeholders in the region.

With support from Member States and other partners, the Regional Centre is planning to further expand its programmes in the coming year, aimed at providing practical assistance to Member States to enhance their capacities to address challenges in the field of disarmament and non-proliferation.

* A/68/50.

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The Regional Centre depends solely on voluntary financial contributions to implement its programmatic activities. The Secretary-General wishes to express his gratitude to Member States, including the host country, Nepal, and other partners that supported the Centre's operations and programmes with financial contributions and in-kind support. He calls upon countries in the region and beyond to make voluntary contributions to the Centre to ensure the sustainability of its activities and operations and to enable it to fulfil the mandate entrusted to it by the General Assembly.

I. Introduction

1. Pursuant to General Assembly resolution 42/39 D, the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific is mandated to provide, on request, substantive support for initiatives and other activities mutually agreed upon by the Member States of the Asia-Pacific region for the implementation of measures for peace and disarmament through the appropriate utilization of available resources. The Regional Centre facilitates and coordinates the implementation of regional activities of the United Nations Office for Disarmament Affairs in the Asia-Pacific region.

2. In its resolution 67/65, the General Assembly expressed its satisfaction for the activities carried out by the Regional Centre in the past year and expressed its gratitude to the Government of the host country, Nepal, for its cooperation and financial support. The Assembly reaffirmed its strong support for the role of the Centre in the promotion of United Nations activities at the regional level to strengthen peace, stability and security in the Asia-Pacific region and requested the Secretary-General to report to the Assembly at its sixty-eighth session on the implementation of the resolution.

3. The present report is submitted in compliance with the above-mentioned request and covers the activities of the Regional Centre during the period from 1 July 2012 to 30 June 2013. A financial statement on the status of the Trust Fund for the Regional Centre for the first year of the biennium 2012-2013 is contained in the annex.

II. Activities of the Regional Centre

4. During the reporting period, the Regional Centre focused its programmatic activities on the following areas: promoting the implementation of global disarmament and non-proliferation instruments; enhancing regional dialogue and confidence-building in the areas of disarmament, non-proliferation and regional security; and executing outreach and advocacy initiatives.

A. Promoting the implementation of global disarmament and non-proliferation instruments

5. The Regional Centre organized a national capacity-building workshop on the implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Held in Bangkok from 11 to 13 December 2012, with the support of the Government of Germany, the main goal of the workshop was to enhance the capacity of State agencies of Thailand to implement the Programme of Action. Over 50 officials from 20 national agencies dealing with small arms and light weapons participated in the workshop, including the Ministries of Foreign Affairs, Defence and Justice, the Office of the Attorney General and agencies in the security sector. International and national experts updated participants on international and regional instruments on small arms and light weapons, and the transfer controls, trafficking and brokering of these weapons. The workshop also reviewed techniques and shared experiences and best practices on control of small arms and light weapons, including stockpile

management, marking and record-keeping, tracing and arms destruction. To further ensure long-term sustainability, a package of key background documents on small arms and light weapons was prepared in the national language for future use.

6. Prior to the Final United Nations Conference on the Arms Trade Treaty, held in March 2013, the Regional Centre organized a seminar facilitating regional dialogue on key issues regarding the Treaty and its negotiation. About 50 senior delegates from 19 Member States in Asia and the Pacific attended the seminar, held in Kuala Lumpur on 26 and 27 February 2013. The seminar was hosted by the Government of Malaysia and supported by the Governments of Japan, New Zealand and Switzerland.

7. The seminar provided an opportunity for senior officials involved in the negotiations to deepen their understanding of and to exchange views on the key issues to be addressed in the final negotiation of the Arms Trade Treaty by enhancing clarity and providing useful information. International experts were invited to provide insights and updates on the key topics under discussion.

8. The Regional Centre continued to assist its host country, Nepal, in its efforts to address challenges posed by small arms through its substantive support to the activities of the Nepal Working Group on Armed Violence Reduction. Through its meetings and other activities, the Working Group provided a platform for information-sharing among government officials, national and international civil society organizations and United Nations agencies on relevant issues related to these challenges. Group members also benefited from information and updates provided by the Regional Centre on the Arms Trade Treaty.

B. Promoting dialogue and confidence in the areas of disarmament, non-proliferation and security

9. The Regional Centre continued to organize its two annual conferences on disarmament, non-proliferation and security issues in Japan and the Republic of Korea. Both served as important forums for international dialogue with representatives from Governments, intergovernmental organizations, policy institutes, academia and other civil society organizations. These conferences provided an opportunity for participants to engage in informal and candid discussions and to explore solutions to key challenges in these areas. This enhanced understanding of complex issues from multiple perspectives and contributed to confidence-building among stakeholders and to the efforts to seek solutions to those challenges.

10. In collaboration with the Government of Japan and the city of Shizuoka, the Regional Centre organized the twenty-fourth United Nations Conference on Disarmament Issues, with the theme, "Creating a peaceful and safe future: pressing issues and potential solutions", in Shizuoka from 30 January to 1 February 2013.

11. Conference participants discussed the humanitarian impact of nuclear weapons and the urgent need to promote nuclear disarmament. Some saw an urgent need to conclude a nuclear weapons convention, while others favoured an incremental approach. On a Middle East nuclear-weapon-free zone, participants took note of the challenges associated with its establishment, including the fact that not all States in that subregion were parties to the Treaty on the Non-Proliferation of Nuclear

Weapons, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (the Biological Weapons Convention) and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention). Participants addressed ways and means to tackle the challenges posed by illicit small arms and light weapons, and the need for ensuring their proper control. In advance of the Final United Nations Conference on the Arms Trade Treaty, both government and civil society representatives stressed the importance of reaching an agreement on this new instrument. Participants also discussed the important role played by civil society in disarmament and non-proliferation and encouraged strengthened cooperation with civil society. As has become a tradition with this event, a large number of local citizens, including students, attended the Conference as observers. The strong support by the city of Shizuoka for the Conference, including the overwhelming public involvement mobilized by the city, was highly praised. A special session was held where a group of high school and university students presented their perspectives on and discussed issues related to peace and disarmament with a panel of Conference participants, highlighting the significance of peace and disarmament education and public support.

12. Continuing what has become known as the "Jeju Process", the Regional Centre and the Ministry of Foreign Affairs and Trade of the Republic of Korea co-organized the eleventh Joint Conference on Disarmament and Non-proliferation Issues, on 3 and 4 December 2012, in Jeju, Republic of Korea. Over 40 senior representatives and experts from Governments and intergovernmental organizations, as well as policy institutes, academia and other civil society organizations participated in frank and interactive discussions.

13. The eleventh Joint Conference addressed challenges in the areas of conventional arms and missiles, under the overall theme "Disarmament and non-proliferation in Asia and beyond: conventional weapons and missiles". Participants took note of the growing challenges posed by the proliferation of missiles and stressed the need to strengthen existing missile control regimes. Participants also acknowledged the necessity of export control regimes for conventional arms and proposed practical ideas on how to improve the regulation of arms brokering. Furthermore, the challenges associated with negotiating the Arms Trade Treaty were reviewed. The issue of conventional arms control on the Korean Peninsula was also discussed.

C. Partnership, outreach and advocacy

14. Continuing its efforts to promote peace and disarmament education, the Regional Centre contributed substantively to the student presentations on international issues, held in Saitama city, Japan, in August 2012. Students from five high schools delivered presentations and shared their expectations of the United Nations and the Government. The event included a panel of representatives from the Ministry of Foreign Affairs of Japan, the Centre for the Promotion of Disarmament and Non-Proliferation, and the United Nations Office for Disarmament Affairs and its Regional Centre. The primary objective of the event was to promote the students' understanding of global peace and security issues. First introduced in 2010 on the margins of the twenty-second United Nations Conference on Disarmament Issues,

also held in Saitama city, this peace and disarmament education initiative has become an annual event. The 2013 event was organized by the city and its Board of Education, in cooperation with the Ministry of Foreign Affairs of Japan, the Japan Model United Nations and the Regional Centre. It is an excellent example of promoting peace and disarmament education, and it demonstrates the potential for enhancing cooperation between local governments and the United Nations.

15. In July and August 2012, the Regional Centre organized a children's art competition under the theme "Children and peace" in Nepal. Some 400 students from schools in the Kathmandu Valley participated in the competition. Depictions of colourful peace symbols, white pigeons, peace bells and Gautama Buddhas filled the children's drawings. The project culminated with an awards ceremony on the International Day of Peace, 21 September 2012. Through their drawings, hundreds of schoolchildren from a post-conflict country expressed their vision and reflected on the theme and on their own role in relation to peace and conflict, which is important in the transformation of a post-conflict society. The success of the project has initiated a process to pilot a larger peace and disarmament education project for schoolchildren in Nepal.

16. The Regional Centre further continued its efforts to strengthen partnerships with key regional stakeholders, including Member States, regional and subregional organizations, other United Nations entities and civil society, through its expanded communications outreach effort as well as joint initiatives and projects.

17. In this context, the Regional Centre enhanced its partnerships with regional and other intergovernmental organizations, including the Association of Southeast Asian Nations, the South Asian Association for Regional Cooperation, the Pacific Islands Forum, as well as with other United Nations agencies. The Regional Centre expanded its communications and outreach activities to include academic institutions and regional non-governmental organizations.

18. The Regional Centre launched a communications outreach initiative, which included utilizing social media, to ensure the regular provision of accurate and timely information about its work and disarmament issues in general, thereby broadening its engagement with regional and international stakeholders. Materials on the Centre's website include a newsletter, updated information on the work of the Regional Centre, reports on its activities and its outreach via social media tools, including on Twitter and Facebook.

D. Future activities

19. The Regional Centre plans to further expand its efforts to provide practical assistance to States in the region, upon their request, especially in the areas of training, technical assistance and other forms of capacity-building, in particular regarding the challenges posed by the illicit trafficking in small arms and light weapons, as well as the implementation of Security Council resolution 1540 (2004) and the Arms Trade Treaty. The following activities are foreseen:

(a) Combating the illicit trade in small arms and light weapons is one of the priorities for many countries in the region. To assist States in addressing this challenge, the Regional Centre will adapt the successful Inter-Institutional Training Course on Combating Illicit Trafficking in Firearms, Ammunition and Explosives

pioneered by the Regional Centre in Latin America and the Caribbean to the specific situation and needs of the Asia-Pacific region;

(b) To support international efforts in preventing non-State actors from acquiring weapons of mass destruction, in particular for terrorist purposes, as embodied in Security Council resolution 1540 (2004), the Regional Centre will work closely with Member States, the experts participating in the Committee established pursuant to the resolution (the 1540 Committee) and other stakeholders to contribute to the full implementation of this important initiative;

(c) Following the conclusion of negotiations on the Arms Trade Treaty in 2013, the Regional Centre stands ready to assist, upon request, Member States in the region to enhance their capacity to sign and ratify this vital new instrument, and to support implementation activities.

III. Staffing and financing

20. The post of Director of the Regional Centre, and one Professional (P-3) and one General Service (G-7) staff are funded from the regular budget. In addition, the Centre has been provided with two United Nations Volunteers, by Finland and Switzerland, and one Junior Professional Officer, by Japan. The Regional Centre continues to rely on voluntary contributions for all of its substantive programmes and for part of its operating costs, and encourages Member States to provide financial and in-kind support for the Centre.

21. In 2012, voluntary contributions in the amount of $152,253 were received from Member States and other donors. The Secretary-General wishes to express his gratitude to the Member States that have made financial and in-kind contributions to the Regional Centre, including China, Finland, Germany, Japan, Kazakhstan, Malaysia, New Zealand, the Republic of Korea, Switzerland and Thailand. Such financial and in-kind contributions remain critical to ensuring the sustainability of the operations, core activities and programmes of the Centre. The Secretary-General urges all Member States, in particular those from the region, as well as other donors, to provide financial resources in support of the Centre's programmes, which benefit the Asia-Pacific region.

IV. Conclusion

22. During the reporting period, the Regional Centre actively engaged in and supported peace and disarmament initiatives in the Asia-Pacific region. Working with Member States and other stakeholders, it continued to fulfil its mandate to provide assistance, upon request, to Member States and to conduct outreach and advocacy activities. The Centre will continue to expand the breadth and scope of its activities, as feasible, including the identification of new and innovative modalities to provide support to Member States in the region. The two annual conferences held in Japan and the Republic of Korea continue to serve as important forums for promoting dialogue and confidence-building in the areas of disarmament, non-proliferation and security. The Regional Centre stands ready to expand the assistance it provides to Member States in addressing the challenges they face in the fields of disarmament and non-proliferation.

Annex

Status of the Trust Fund for the United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific for 2012

(United States dollars)

Reserves and fund balance, 1 January 2012	712 049
Income	
Voluntary contributions	152 253[a]
Interest income	5 086
Other/miscellaneous income	47 998[b]
Total income	**205 337**
Expenditure	188 638
Programme support costs	22 081
Total expenditure	**210 719**
Reserves and fund balance, 31 December 2012	**706 667**[c]

[a] During the period under review contributions totalling $152,253 were received from: China ($50,000), Germany ($46,253), Kazakhstan ($10,000), Republic of Korea ($40,000) and Thailand ($6,000).

[b] Represents cancellations of prior period obligations of $42,477 and related programme support costs adjustment of $5,521.

[c] Consists of reserves and fund balance, 1 January 2012 plus income received in 2012 less expenditures incurred during the year. During the period from January to 31 May 2013, an additional contribution of $33,391 was received from New Zealand.

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Sixty-eighth session
Item 86 of the preliminary list*
The scope and application of the principle of universal jurisdiction

The scope and application of the principle of universal jurisdiction

Report of the Secretary-General

Summary

The present report has been prepared pursuant to General Assembly resolution 67/98, by which the Assembly requested the Secretary-General to prepare a report on the basis of information and observations received from Member States and relevant observers, as appropriate, on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties, their domestic legal rules and judicial practice.

* A/68/50.

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I. Introduction

1. The present report has been prepared pursuant to General Assembly resolution 67/98. It reflects comments and observations received since the issuance of the report of 2012 (A/67/116) and should be read together with that and prior reports (A/65/181 and A/66/93 and Add.1).

2. In accordance with resolution 67/98, section II of the present report, together with tables 1 and 2, focus on specific information regarding the scope and application of universal jurisdiction on the basis of relevant domestic legal rules, applicable international treaties and judicial practice. Section III provides information received from observers, and section IV contains a synopsis of issues raised by Governments for possible discussion.

3. Responses were received from Australia, Colombia, Cuba, Greece, Hungary, Lebanon, Moldova, Panama and Spain.

4. Responses were also received from the African Union, the Council of Europe and the International Committee of the Red Cross.[1]

5. The complete submissions are available from the website of the Sixth Committee of the General Assembly (www.un.org/en/ga/sixth/) under the heading "Sixty-eighth session".

II. Scope and application of universal jurisdiction on the basis of the relevant domestic legal rules, applicable international treaties and judicial practice: comments by Governments

A. Basic legal rules

1. Constitutional and other domestic legal framework

Australia

6. Australia's courts have jurisdiction over the offence of slavery (section 270.1 of the Criminal Code) irrespective of whether the perpetrator was within or outside Australian territory at the time the offence was committed. Other offences under Division 270 are subject to "category B" jurisdiction. Under category B jurisdiction, where the conduct constituting these offences occurs outside Australia, Australian courts will only have jurisdiction where the perpetrator is an Australian citizen, an Australian resident or an Australia body corporate. Trafficking in persons (sections 271.2-271.4) and debt bondage (sections 271.8 and 271.9) offences are subject to category B jurisdiction.

7. The Crimes Legislation Amendment (Slavery, Slavery-Like Conditions and People Trafficking) Act 2013 entered into force on 8 March 2013. The Act amended Division 270 of the Criminal Code to introduce the new offences of forced marriage and forced labour. The Act has repealed the offence of sexual servitude (formerly section 270.6) and inserted new offences of servitude in all forms. The Act has also repealed the offence of deceptive recruiting for sexual services (formerly

[1] The Organization for Security and Cooperation in Europe advised that it had no relevant information or observations to submit.

section 270.7) and inserted a new offence of deceptive recruiting for labour or services. Category B jurisdiction applies to all of these offences.

Colombia

8. Colombia reiterated its previous comments (see A/66/93, paras. 10-17). As an adherent to the dualist theory of international law, it considers that, in order for legal proceedings to be initiated, the act in question must be established as a crime under its domestic criminal law. Under article 2 of the Penal Code (Act No. 599 of 2000), international treaties and conventions ratified by Colombia and the Political Constitution are part of the Penal Code. In addition, Colombia recognized that, given the difficulty of gathering evidence and the requirement that the accused be present in the territory of the prosecuting State, systems for mutual cooperation in judicial matters must be strengthened.

9. In addition to reiterating the role of article 93 of the Political Constitution of Colombia (see A/66/93, para. 11), Colombia noted that article 94 states that the rights and guarantees enshrined in the Constitution and in the international conventions that are currently in force shall not be understood as negating other rights and guarantees which, because they are inherent to humanity, are not expressly mentioned therein.

10. Under articles 24, 28 and 29 of the Code of Criminal Procedure (Act No. 906 of 2004), universal jurisdiction may be exercised pursuant to a signed and ratified treaty or to the provisions of domestic law that establish such jurisdiction.

11. Article 16 of the Penal Code provides for the prosecution of an alien who commits an offence against another alien and is in Colombian territory in cases where the sentence provided for in Colombian law is longer than three years, the offence is not political in nature or a request for extradition has been denied by the Government of Colombia.

Greece

12. Article 8 of the Greek Penal Code establishes universal jurisdiction for the following categories of crimes, in that Greek penal laws are applicable to Greek nationals and non-nationals alike, irrespective of the laws of State where the act was committed:

(a) High treason, treason against the Greek State and terrorist acts;

(b) Crimes concerning military service and the obligation for conscription;

(c) Punishable acts committed by persons in their capacity as civil servants of the Greek State;

(d) Acts against a Greek civil servant in the exercise of his/her duties or related to his/her duties;

(e) Perjury in the context of proceedings pending before Greek authorities;

(f) Piracy;

(g) Crimes against the currency;

(h) Slave-trade, trafficking in human beings, forced prostitution or sexual abuse of minors for profit, child sex tourism or child pornography;

(i) Illegal trafficking in narcotic drugs;

(j) Illegal circulation and trafficking in obscene publications;

(k) Any other crimes to which Greek penal laws apply by virtue of specific provisions or international conventions signed and ratified by Greece.

Greece noted that article 8 has primarily been applied in cases of trafficking in narcotic drugs. Under the article, national jurisdiction is exercised irrespective of the location of the crime or the nationality of the alleged victim or perpetrator, and is concurrent to the jurisdiction of other States. No application by a foreign authority or by the victim is necessary for prosecution to commence.

13. Law 3658/2008 on "Measures for the protection of cultural property and other provisions" (Official Gazette, vol. A 70/22.4.2008) stipulates in article 13, paragraph 4, that the offences provided for in chapter 9 of Law 3028/2002 on the "Protection of antiquities and cultural heritage in general" (Official Gazette, vol. A 153/28.6.2002) are prosecuted and punished according to Greek penal laws even if committed abroad. Additionally, article 2 of Law 3948/2011 (Official Gazette, vol. A 71/5.4.2011) on the "Adjustment of domestic law provisions to the provisions of the Statute of the International Criminal Court ratified by Law 3003/2002 (A 75)" provides that the provisions of that law are applicable both to national and non-nationals for all acts enumerated in articles 7 to 15 (i.e. genocide, crimes against humanity, war crimes, violation of the duty of supervision, omission to report a crime) provided that they have been committed:

(a) In the territory of the Greek State or on board Greek vessels or aircrafts, wherever they are present, unless they are subject to foreign legislation according to international law;

(b) Abroad, by Greek nationals or foreigners who acquired Greek nationality after the commission of the act;

(c) Abroad, against the Greek State or Greek nationals.

14. Greece is also a party to a number of international conventions which include *aut dedere aut judicare* obligations.

Hungary

15. Within Hungary, universal jurisdiction is defined in two provisions. Pursuant to subparagraph (c) of paragraph (1) of article 4 of the effective Act IV of 1978 on the Criminal Code, Hungarian law shall be applied to any act committed by a non-Hungarian citizen in a foreign country if it is a crime against humanity or any other crime that is to be prosecuted under an international treaty. Moreover, pursuant to item (ac) of subparagraph (a) of paragraph (2) of article 3 of Act C of 2012 on the Criminal Code, Hungarian law shall be applied to any act specified in chapters XIII (crimes against humanity) and XIV (war crimes) or to any other crime that is to be prosecuted under an international treaty.

16. Pursuant to both of these provisions, there was no requirement that the act be a crime where the crime was perpetrated.

Lebanon

17. Lebanon reiterated that it was not a party to any treaties or agreements on universal jurisdiction. Lebanese law contains no provisions that could be interpreted as establishing universal jurisdiction (see A/65/181, generally, and A/66/93, para. 22).

Moldova

18. Universal jurisdiction is regulated by article 11, paragraph 3 of the Penal Code, which stipulates that:

> If not convicted in a foreign state, foreign citizens and stateless persons without permanent residence on the territory of the Republic of Moldova who commit crimes outside the territory of the Republic of Moldova shall be criminally liable under this Code and shall be subject to criminal liability on the territory of the Republic of Moldova provided that the crimes committed are adverse to the interests of the Republic of Moldova or to the peace and security of humanity, or constitute war crimes set forth in the international treaties to which the Republic of Moldova is a party.

19. Provisions of the Penal Code referring to crimes against the peace and the security of humanity and to war crimes are listed in the Special Part, articles 135 to 144. International regulations to which Moldova is a party take precedence and can be applied directly as per article 1, paragraph 3 of the Penal Code. Law No. 45 of 7 February 2013 amended the Penal Code to provide criminalization under the domestic law for crimes under the Rome Statute, referring to articles 127 (persons protected by international humanitarian law); 130 (mercenaries); 135 (genocide); 135 (1) (crimes against humanity); 137 (war crimes against humanity); 137 (1) (war crimes against property and other rights); 137 (2) (use of prohibited means in the conduct of war); 137 (3) (use of prohibited methods in the conduct of war); 137 (4) (unlawful use of distinctive international humanitarian law signs).

Panama

20. Panama reiterated the information contained in paragraphs 18 to 20 of the previous report (A/67/116).

Sweden

21. Sweden reiterated information contained in previous reports (see A/66/93, paras. 43-45 and A/67/116, para. 21).

2. Applicable international treaties

22. A list of the treaties referred to, on the basis of information received, by Governments is provided in table 2.

B. Conditions, restrictions or limitations to the exercise of jurisdiction

1. Constitutional and domestic legal framework

Hungary

23. Hungary indicated that any criminal proceedings conducted under universal jurisdiction shall be instituted by the Prosecutor General. It is contemplated that the prosecution by the Hungarian authorities of crimes committed by a foreign citizen or a stateless person may affect Hungary's international relations.

Moldova

24. Moldova confirmed that, pursuant to article 60, paragraph 8 of its Penal Code, there is no statute of limitations for the crimes listed in article 11, paragraph 3 of the Penal Code.

Spain

25. Spain reiterated its comments contained in paragraphs 74 to 78 of document A/66/93, and emphasized that following the 2009 (Organization Act No. 1/2009) reform of the Judicial Power Organization Act No. 6/1985, it is no longer possible to speak of an absolute principle of universal jurisdiction in Spain since, under the new paragraph 4 of article 23, it is subject to the existence of "a relevant link with Spain" and some subordination of Spanish jurisdiction to another competent jurisdiction (concurrent jurisdiction), whether national or international, provided that proceedings for the effective investigation and prosecution of the offences in question have been initiated in that other jurisdiction.

Sweden

26. Sweden reiterated information contained in the previous report (see A/67/116, paras. 25-27).

2. Judicial and other practice

Moldova

27. From 2004 to 2013, no national court examined any criminal case initiated under articles 135 to 144 of the Penal Code and no domestic practice in universal jurisdiction exists.

Colombia

28. Colombia drew attention to its previous comments (see A/66/93, para. 53) and noted that while no known cases exist in which universal jurisdiction has been exercised in Colombia in respect of a violation of human rights committed by an alien in another country, or in which extradition has been requested in the exercise of universal jurisdiction, the Constitutional Court has stated, in judgement No. C-979 of 2005, that it is in the interests of all States to investigate and punish the most serious violations of human rights and international humanitarian law, such as genocide, torture and enforced disappearance, and that it is in the legitimate interest of any State to exercise jurisdiction on behalf of the international community in order to investigate, prosecute and punish the perpetrators of such crimes.

Spain

29. Three recent examples of Spanish jurisprudence on universal jurisdiction were of particular note.

30. First, by Order 1566 of 6 October 2011, section 1 of the Criminal Chamber of the Supreme Court established the inadmissibility of the appeal brought against the order that had dismissed allegations concerning crimes against humanity, torture and war crimes allegedly committed by certain Chinese authorities against the people of Tibet.

31. Second, on 29 October 2012, the Central Court of Investigation No. 5 of the National High Court indicted seven Chilean soldiers on allegations of the crime of genocide (as well as the alleged crimes of murder and kidnapping) concerning the death of a Spanish national working as an international civil servant at the Economic Commission for Latin America. The order highlighted that "the criminal proceedings initiated in a Spanish court shall be temporarily stayed in the event that it is established that proceedings based on the alleged acts have been initiated in the country or by the [international] Court".

32. Third, by Order 1916 of 20 December 2012, section 1 of the Criminal Chamber of the Supreme Court established the inadmissibility of the appeal against the Order of the Criminal Chamber of the National High Court on 23 March 2012. The Spanish courts were found to lack jurisdiction to investigate allegations of torture and ill-treatment at the Guantánamo Bay detention centre, in application of the principle of subsidiarity, since the authorities of the United States of America had demonstrated that administrative and criminal proceedings had been, or were being, conducted to investigate the facts.

III. Scope and application of universal jurisdiction: comments by observers

African Union

33. The African Union highlighted the adoption by the Assembly of Heads of State and Government of the decision on the abuse of the principle of universal jurisdiction (Assembly/AU/Dec.420(XIX)). In that decision the Assembly urged African Union member States to use the principle of reciprocity to defend themselves against the abuse of universal jurisdiction. It reiterated its request that warrants of arrest issued on the basis of the abuse of universal jurisdiction not be executed by any member State. The Assembly requested the African Union Commission to send an official communication to the European Commission asking the latter to request the Government of Spain to comply with the laws of Spain with respect to the arrest warrants issued against Rwandan leaders. The African Union additionally adopted the African Union Model National Law on Universal Jurisdiction over International Crimes.[2]

[2] The model law is on file with the Codification Division of the Office of Legal Affairs of the Secretariat.

Council of Europe

34. The Council of Europe reiterated its previous submission (see A/66/93, paras. 110-113). On 13 June 2012, the Committee of Ministers adopted a Reply to Recommendation 1953 (2011) of the Parliamentary Assembly of the Council of Europe, entitled "The obligation of member and observer states of the Council of Europe to co-operate in the prosecution of war crimes". The Committee stated, inter alia:

> 6. The Committee of Ministers furthermore notes that several member States of the Council of Europe have acknowledged the principle of universal jurisdiction. However, there is no international consensus on the definition and scope of this principle, as the exercise of universal jurisdiction is in practice often subject to legal limitations defined in national legislation. Considerable challenges therefore remain for domestic legal systems to ensure the exercise of universal jurisdiction efficiently and effectively.
>
> 7. The Committee of Ministers therefore considers that the Council of Europe could reinforce the application of the principle of *aut dedere aut judicare* as a means of prosecuting war crimes effectively in cases where universal jurisdiction cannot be exercised. It also encourages enhancing co-operation between the member and observer States.

35. In its judgment of 12 July 2007, *Jorgic v. Germany*,[3] the European Court of Human Rights held that Germany had not violated article 6, paragraph 1 of the European Convention on Human Rights concerning the right to a trial by a "tribunal established by law". The applicant, a national of Bosnia and Herzegovina of Serb origin, legally resided in Germany from 1969 until the beginning of 1992. He then returned to Bosnia. On 16 December 1995 the applicant was arrested when entering Germany and placed in pre-trial detention on the ground that he was strongly suspected of having committed acts of genocide.

36. Pursuant to article I of the Convention on the Prevention and Punishment of the Crime of Genocide, the Contracting Parties were under an *erga omnes* obligation to prevent and punish genocide, the prohibition of which forms part of *jus cogens*. In view of this, the Court held that the national courts' reasoning that the purpose of the Genocide Convention, as expressed notably in that article, did not exclude jurisdiction for the punishment of genocide by States whose laws establish extraterritoriality in this respect was reasonable and convincing. The Court found support for its interpretation from the express acknowledgment of the principle of universal jurisdiction for genocide by the International Tribunal for the Former Yugoslavia, as well as the statutory provisions and case law of numerous other Contracting Parties.

International Committee of the Red Cross

37. The International Committee of the Red Cross (ICRC) reiterated its comments contained in paragraphs 121 to 140 of the 2011 report (A/66/93). It updated its data on the number of States Parties to Additional Protocol I to the Geneva Conventions of 12 August 1949 (173); the number of States that have vested their national courts

[3] European Court of Human Rights, Fifth Section, 12 July 2007, *Jorgic v. Germany*, Application No. 74613/01.

with universal jurisdiction to a certain degree over serious violations of international humanitarian law (over 100); and the activities of the ICRC Advisory Service, which hosted an expert consultation on universal jurisdiction in December 2012, focused on developments in universal jurisdiction since the establishment of the International Criminal Court.

38. It stressed that in addition to the International Tribunals for Rwanda and the Former Yugoslavia, the International Residual Mechanism for Criminal Tribunals and the International Criminal Court (ICC), universal jurisdiction remains an essential tool to break the cycle of impunity. In accordance with the Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2005, it remains the responsibility of States to bring perpetrators to face justice. In those instances where States may be unable or unwilling to prosecute their citizens or crimes committed on their territory, universal jurisdiction has a role to play to bridge the impunity gap that may exist between domestic and international criminal prosecution.

39. While there may be national policy considerations in the application of universal jurisdiction, the independence of the judiciary and fair trial guarantees must be respected at all times.

IV. Nature of the issue for discussion: specific comments by States

Colombia

40. Colombia considers that universal jurisdiction is residual in nature and is exercised in respect of offences that are alleged to have been committed in the territory of another State, by nationals of another State and against nationals of another State, and that pose no direct threat to the vital interests of the State that purports to exercise jurisdiction. It notes that universal legislative jurisdiction is more prevalent than universal contentious jurisdiction, but that both are potentially applicable.

41. Colombia emphasizes that universal jurisdiction must be distinguished from the jurisdiction of international tribunals, specifically that of the International Criminal Court, and from the principle of *aut dedere aut judicare*, which are complementary strategies to combat impunity. The primary issues for discussion are the questions of competing jurisdictions; the importance of *jus cogens*; whether the exercise of universal jurisdiction is optional or compulsory; and the relationship with amnesty or pardon.

Cuba

42. Cuba[4] reiterated its view that the application of universal jurisdiction should be regulated at the international level to prevent its unwarranted use in a unilateral, selective and politically motivated manner. Cuba supports the drafting of international norms or guidelines establishing clearly under what conditions or within which limits universal jurisdiction may be invoked, as well as the crimes that are subject to the principle, if there is international consensus in this regard. The application of universal jurisdiction must respect the principles enshrined in the

[4] For previous comments submitted by Cuba, see A/65/181 and A/67/116.

Charter of the United Nations, in particular the principles of sovereign equality, political independence and non-interference in the internal affairs of States, and should be defined as exceptional and supplementary in nature.

43. Cuba emphasized that universal jurisdiction should only be applied under exceptional circumstances when there is no other way to bring proceedings against the perpetrators, and must be limited by absolute respect for the sovereignty of and always be supplementary to the actions and national jurisdiction of States. Cuba noted that the approval of the State in which the crime was committed or the countries of which the accused is a national must be obtained prior to the use of universal jurisdiction.

44. Cuba noted that the application of the principle should not violate the immunity granted under international law to Heads of State and Government, diplomatic personnel and other incumbent high-ranking officials.

45. Cuba suggested universal jurisdiction be restricted to crimes against humanity.

Lebanon

46. Lebanon reiterated its previous observations (see A/66/93, paras. 146-148).

Panama

47. Panama reiterated the information contained in paragraphs 38 and 39 of the previous report (A/67/116).

Table 1
Specific legislation relevant to the subject, based on information submitted by Governments

Category	*Legislation*	*Country*
Slave trade or traffic in slaves	Division 270 of the Criminal Code	Australia
	Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013	Australia
Genocide	Law No. 45 of 7 February 2013 (amending article 135 of the Penal Code)	Moldova
	Swedish Criminal Code, chapter 2, section 3.7	Sweden
Mercenaries	Law No. 45 of 7 February 2013 (amending Article 130 of the Penal Code)	Moldova
Crimes against humanity	Law No. 45 of 7 February 2013 (amending article 135 (1) of the Penal Code)	Moldova

Category	*Legislation*	*Country*
	Article 4 of the effective Act IV of 1978 on the Criminal Code; article 3 of Act C of 2012 on the Criminal Code	Hungary
War crimes	Penal Code, article 11; Law No. 45 of 7 February 2013 (amending Articles 127 and 137 of Penal Code)	Moldova
	Article 3 of Act C of 2012 on the Criminal Code	Hungary
Crimes against international law	Swedish Criminal Code, chapter 2, section 3.6 and chapter 22, section 6 (defining a crime against international law as "a serious violation of a treaty or agreement with a foreign power or an infraction of a generally recognized principle or tenet relating to international humanitarian law concerning armed conflicts")	Sweden
Offences against the State	Penal Code, article 11	Moldova
	Penal Code (Act No. 599 of 2000), article 16 (offences against the existence and security of the State; offences against the Constitution and the legal order; offences against the economic and social order, with the exception of money-laundering; offences against the public administration)	Colombia
Offences against peace and the security of humanity	Penal Code, article 11	Moldova
Offences against morality and exploitation	Act No. 23 of 7 July 2004 (approving article 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime)	Panama

Category	*Legislation*	*Country*
Money/property laundering	Penal Code, article 389, as amended by article 11 of Act No. 1 of 5 January 2004	Panama
Counterfeiting	Penal Code (Act No. 599 of 2000), article 16	Colombia
Financing of terrorism	Penal Code (Act No. 599 of 2000), article 16	Colombia
Administering resources linked to terrorist activities	Penal Code (Act No. 599 of 2000), article 16	Colombia
Trafficking in narcotics/drugs	Act No. 13 of 27 July 1994	Panama

Table 2
Relevant treaties that were referred to by Governments, including treaties containing *aut dedere aut judicare* provisions

A. Universal instruments

Genocide	Convention on the Prevention and Punishment of the Crime of Genocide, 1948	Colombia, Moldova, Spain
International humanitarian law	Geneva Conventions of 1949 and the Additional Protocols thereto	Panama, Moldova, Spain
International criminal law	Rome Statute of the International Criminal Court, 1998	Colombia, Moldova, Spain, Sweden
Narcotic drugs and psychotropic substances	United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988	Moldova
Corruption and transnational organized crime	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 1990	Moldova
	United Nations Convention against Transnational Organized Crime, 2000	Colombia
	United Nations Convention against Corruption, 2003	Colombia

Torture	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	Colombia, Spain, Sweden
Trafficking in persons	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000	Colombia, Panama
Crimes against internationally protected persons, including diplomatic agents	Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973	Spain
Enforced disappearance	International Convention for the Protection of All Persons from Enforced Disappearance, 2006	Colombia, Panama
Terrorism-related offences	European Convention on the Suppression of Terrorism, 1977	Moldova
Protection of cultural property in the event of armed conflict	Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1999	Panama
Non-applicability of the statute of limitations	Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, 1968	Colombia
General	Charter of the United Nations, 1945	Cuba

B. Regional instruments

Human rights	European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950	Spain

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United Nations Regional Centre for Peace and Disarmament in Africa

Report of the Secretary-General

Summary

The present report contains an account of the activities undertaken by the United Nations Regional Centre for Peace and Disarmament in Africa from July 2012 to June 2013.

During the reporting period, the Centre continued its assistance, upon request, to Member States, intergovernmental and civil society organizations in Africa to promote peace, security and disarmament.

In the light of the continued instability and conflicts in Africa, particularly in Central and West Africa, which is compounded by the threat to peace, security and socioeconomic development posed by the proliferation of small arms and light weapons, the Centre focused its work on providing assistance to States to combat the illicit proliferation of such weapons and to reform their security sector. The Centre supported Member States in their implementation of regional and subregional instruments aimed at combating the proliferation of small arms and light weapons in Central, East and West Africa, and provided training to defence and security forces, including on small arms. The Centre also partnered with the African Union and the International Action Network on Small Arms in assisting African States in their preparation for the negotiations on the Arms Trade Treaty.

Within its peace and security mandate, the Centre assisted defence and security forces in Africa in developing effective, inclusive and accountable security institutions by providing training on the principles of the use of force and firearms, in particular during elections.

* A/68/50.

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The Centre continued to provide substantive and technical support related to disarmament issues to the meetings of the United Nations Standing Advisory Committee on Security Questions in Central Africa, in particular at the thirty-fifth ministerial meeting of the Committee, held in Brazzaville, in December 2012.

The Centre continued to enhance its capacity in the fields of disarmament, peace and security. Despite its recognized expertise in these areas and the increasing requests from African countries for assistance, the mobilization of financial resources that the Centre requires to implement its projects in response to those requests remains a major challenge.

The Centre relies solely on voluntary contributions to implement its programmes and the Secretary-General wishes to express his gratitude to those Member States and other partners who supported the Centre's operations and programmes with financial contributions and calls upon those in a position to do so to make voluntary contributions to the Centre to enable it to fulfil its mandate.

I. Introduction

1. In its resolution 67/69, the General Assembly noted with appreciation the tangible achievements and impact of the assistance provided by the United Nations Regional Centre for Peace and Disarmament in Africa and welcomed its contribution to continental disarmament, peace and security.

2. The General Assembly requested the Secretary-General to submit a report to it at its sixty-eighth session on the implementation of the resolution. The present report is submitted pursuant to that request and covers the activities of the Centre for the period from July 2012 to June 2013. A financial statement on the status of the trust fund for the Regional Centre is contained in the annex to the present report.

II. Functioning and mandate of the Regional Centre

3. The United Nations Regional Centre for Peace and Disarmament in Africa was established in 1986 in Lomé, pursuant to General Assembly resolution 40/151 G. The Centre functions on the basis of existing resources within the Secretariat and of voluntary contributions that Member States and other donors may offer.

4. During the reporting period, the Centre continued to implement its programme of work in the following main areas: peace and security; conventional arms, including small arms and light weapons; weapons of mass destruction; information and outreach; and cooperation and partnerships with regional and subregional organizations and other entities.

III. Objectives and activities

5. The Centre provides assistance, upon request, to Member States, the African Union and other relevant intergovernmental organizations in the promotion of disarmament, peace and security in Africa. It also works in partnership with academic and research institutions and civil society organizations in the implementation of its programmes, projects and other activities linked to disarmament, peace and security. Owing to the specific nature of security issues in Africa, the Centre has continued to place emphasis on activities linked to controlling the illicit trade and proliferation of small arms and light weapons and to reforming defence and security forces with the goals of reducing armed conflict and armed violence and of developing effective, inclusive and accountable security institutions. The Centre provides support to African Member States and intergovernmental organizations in those areas through capacity-building and training, technical assistance, research and information-sharing.

6. The Centre currently has four thematic programmes: peace and security, small arms and light weapons, conventional arms, and weapons of mass destruction. It also maintained its host country programme.

A. Peace and security

7. Within the peace and security programme, the Centre carried out activities to assist Member States in reforming their defence and security forces, in response to

requests received from the Government of Togo and States members of the United Nations Standing Advisory Committee on Security Questions in Central Africa.

8. In response to the security situation in the Sahel region and the efforts of the Security Council to resolve the situation, in May 2013, the Centre provided technical and expert support to the Kofi Annan International Peacekeeping Training Centre for the development of a training course on small arms and light weapons proliferation in the Sahel. The training course will be directed to 800 West African practitioners, including security sector personnel and lawmakers, from Burkina Faso, Mali, the Niger, Nigeria and Senegal and is aimed at strengthening operational-level competencies in small arms control in the subregion.

9. At the thirty-fifth ministerial meeting of the United Nations Standing Advisory Committee on Security Questions in Central Africa, held in Brazzaville, in December 2012, the Centre took part in the commemoration of the Committee's twentieth anniversary and made a presentation entitled "Two decades of peacebuilding in Central Africa: the contribution of the United Nations Standing Advisory Committee on Security Questions in Central Africa". The Centre also updated participants on disarmament developments in the subregion and on the cooperation between the United Nations system in Central Africa and the Committee in the context of peace and security. The Centre focused on promoting national implementation of relevant international and regional disarmament instruments and on identifying the challenges and opportunities for their implementation in the subregion. With a view to better understanding the challenges of illicit trafficking of small arms in a maritime context, which is a concern for Central African States, and building on a similar report prepared by the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean, the Centre prepared a detailed report covering the specific challenges States face in identifying and stopping arms trafficking and other smuggling networks that operate by sea.

10. The Centre provided substantive input to the African regional seminar on the universalization of the Convention on Cluster Munitions, hosted by the Government of Togo and the United Nations Development Programme (UNDP) in May 2013. The Centre provided participating experts from Member States with information on the ratification and implementation of the Convention and the support they could receive from international partners, including the Regional Centre.

B. Small arms and light weapons

11. The Centre supported African Member States in implementing international and regional instruments to combat the illicit trade and the uncontrolled proliferation of small arms and light weapons through assisting in the development of regional and national action plans on small arms; strengthening the capacities of Governments and civil society on small arms control; and identifying control challenges through baseline assessments.

12. As a member of the African Union-Regions Steering Committee on Small Arms and Light Weapons, the Centre continued to assist the African Union in efforts to develop an African strategy and action plan for the control of small arms and light weapons. This was achieved by providing substantive advice to the Steering Committee and organizing debates on these issues. The African Union, at its summit

held in January 2013, encouraged States members of the Union to make use of the strategy and action plan.[1] The action plan aims at strengthening the capacity of African Union member States, regional economic communities and other regional institutions. Under the action plan, the members of the African Union will implement measures against the illicit proliferation, circulation and trafficking of small arms and light weapons, and promote cooperation, coordination and the exchange of information on this issue. The Centre stands ready to support the African Union and its member States, as well as subregional organizations, in the implementation of the strategy and action plan, which constitute an effective framework to improve the coordination on small arms issues on the continent.

13. As a follow-up to its support to the Economic Community of West African States (ECOWAS) in the adoption of harmonized subregional agreements on the marking of small arms and light weapons, the Centre provided assistance to Togo in applying the standards and procedures established by the marking agreement adopted by ECOWAS in December 2011, which set new standards for the marking of small arms and light weapons in West Africa. The standards require States to ensure that classical and security markings are placed on each imported small arm and light weapon, on industrially produced small arms and light weapons, and to mark firearms produced by craft producers. With such standards, member States of ECOWAS will be in a position to identify the entity or individual responsible for the weapon, facilitate the tracing of small arms and light weapons and contribute to preventing diversions from Government stockpiles.

14. The Centre has been actively engaged in assisting the National Commission on Small Arms of Togo in the elaboration of a national plan of action on small arms for the period 2012-2016. The action plan was submitted to the Government in 2012 for review and is expected to be endorsed by Parliament in 2013. The Centre provided substantive and technical support to the National Commission on such priority items as capacity-building and the strengthening of policy, legislative and regulatory measures, including updated procedures and controls related to record-keeping, storage, exports, imports and transit. The plan of action is expected to lay the groundwork for the implementation of policies to combat the proliferation of small arms.

15. At the request of the Government of the Sudan, the Centre conducted a needs assessment mission and national consultations, with financial support from Australia, in December 2012. The Centre and the Government identified four priority areas for assistance: (a) reviewing and validating the draft national action plan on small arms control; (b) upgrading the database management system to register small arms; (c) supporting the implementation of the Khartoum Declaration on the control of small arms and light weapons across the neighbouring countries of Western Sudan; and (d) organizing public awareness campaigns. The Centre is developing a technical assistance programme in cooperation with the Government.

16. The Centre has also adapted and developed training modules on small arms for defence and security sector forces, national commissions on small arms and civil society. In response to a request from the Government of Côte d'Ivoire, with funding from Australia and with the cooperation of the National Commission on

[1] Decision 472 (XX) of the Assembly of the African Union on the report of the Peace and Security Council on its activities and the state of peace and security in Africa (Doc. Assembly/AU/3(XX)).

Small Arms of Côte d'Ivoire, the Centre trained 23 members of security sector personnel on small arms and light weapons control issues in the context of border management. The training modules cover the following topics: human and community security; identifying small arms and light weapons, related ammunition, and explosives; normative controls on small arms and light weapons, including related to exports, imports, transit, borders, brokering, marking, record-keeping, criminal offences, seizures, civilian possession, and craft production; practical disarmament measures; stockpile management and destruction; the role of civil society in practical disarmament; and research techniques on small arms and light weapons. The Centre also facilitated a guided self-assessment of several arms and ammunition depots by the National Commission and provided support for the rehabilitation of four police stations. The Centre further conducted an assessment of the use and stockpiling of arms by the private security sector in the country. This substantive support to the National Commission of Côte d'Ivoire contributed to the improvement of the security environment in the country in support of efforts undertaken by the United Nations Operation in Côte d'Ivoire (UNOCI), particularly given the circulation of illegal arms following the post-electoral crisis that arose after November 2010.

17. In cooperation with the Friedrich-Ebert Foundation, the Centre commissioned a study to assess the nature and scope of small arms and light weapons trafficking within and among Benin, Ghana, Nigeria and Togo. The study determines the source of the illicit weapons and the types of illicit traffickers, identifies trafficking routes and provides an estimate of the flow of weapons. It also addresses methods to identify illicit arms caches and to assess the local or craft production of arms. The study recommends strengthening judicial, operational and technical capacities on small arms control issues, including stockpile safety and security, collection, seizure and destruction and border management and control. On the basis of the findings and the recommendations of the study, the Centre and the Foundation will develop programmes aimed at addressing some of the major problems related to the illicit trade of small arms and light weapons.

C. Other conventional arms issues

18. In order to facilitate the negotiation process of the Arms Trade Treaty, the Centre organized, together with the African Union and other partners, several events to facilitate a coordinated African approach to the treaty's negotiation.

19. Following the adoption of a common position on the Arms Trade Treaty by West African States (December 2010) and Central African States (March 2011) respectively, an African Union Common Position on an Arms Trade Treaty was adopted at the African Union Summit in January 2013. The Centre facilitated the development of the African common position on the treaty.

20. The Centre, in cooperation with the African Union and with financial support from Australia, provided substantive support to the Group of African States meeting prior to the United Nations Conference on the Arms Trade Treaty, which was held in New York in July 2012. The meeting provided African delegations with an opportunity to familiarize themselves with key issues of the treaty and prepare for the substantive negotiations.

21. The Centre provided support to African States in preparation for the Final United Nations Conference on the Arms Trade Treaty, held from 18 to 28 March 2013. In partnership with the African Union and civil society organizations, and with financial support from Australia, Germany, the Netherlands and New Zealand, the Centre co-organized the "African seminar to prepare for the Final Conference on the Arms Trade Treaty" in Addis Ababa, in March 2013. Governmental experts from 43 African States attended the seminar and discussed key issues of the treaty, including the scope, transfer criteria and implementation of the treaty.

D. Weapons of mass destruction

22. The Centre supported Member States in their efforts to implement Security Council resolution 1540 (2004) on the non-proliferation of nuclear, chemical and biological weapons and their means of delivery. In consultation with the Committee established pursuant to resolution 1540 (2004) and the Weapons of Mass Destruction Branch of the Office for Disarmament Affairs, the Centre has developed a project to strengthen the capacities of African Member States in their implementation of the resolution, focusing on reporting obligations.

23. The Centre provided logistical support to the Department of Political Affairs in the organization of a subregional workshop entitled "Implementing United Nations sanctions measures: prospects and lessons learned", held in Togo in May 2013. The workshop drew experts from West African and Central African States.

E. Host country programme

24. In order to contribute to security sector reform in Togo, in particular from the perspective of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials[2] and in keeping with the integrated technical guidance notes on security sector reform developed by the inter-agency Security Sector Reform Task Force, the Centre, in cooperation with the Office of the United Nations High Commissioner for Human Rights, UNDP and the International Committee of the Red Cross, with funding from the European Commission, conducted an evaluation of the capacity of police and gendarmerie training centres to train security sector forces for law enforcement during elections. The findings of the evaluation were integrated into training manuals and in two train-the-trainer programmes, which were conducted with Togolese police and gendarmerie, in September and November 2012, with a focus on international best practices in the area of law enforcement, crowd control and public order during elections. The training focused on the appropriate use of force and firearms to secure elections in a fragile context. As a result, some 7,000 police, gendarmes and other security sector personnel were trained by the Centre and, subsequently, by the Togolese security sector directly. The training also benefited Togolese gendarmerie and police units that will be deployed to peacekeeping missions. The training package can be adapted to situations in other African States that may need similar support for their security forces in upcoming elections.

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[2] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

F. Information and outreach

25. As part of Disarmament Week, in October 2012, the Centre hosted a cultural event in collaboration with local non-governmental organizations focusing on the theme of "Culture as a tool for peace and disarmament", which highlighted the work of the United Nations in disarmament and non-proliferation education. The Centre also briefed Togolese high school students in May 2013, in Lomé, prior to their participation in a Model United Nations competition at United Nations Headquarters in New York.

26. The Centre developed a new communications strategy aimed at improving its ability to inform and interact with Member States, regional and subregional organizations, civil society organizations and the public at large regarding the Centre's work and priorities. Those efforts included redesigning its electronic newsletter "UNREC Focus" and improving its website (www.unrec.org). The number of subscribers to the newsletter has more than doubled and it now reaches more than 2,400 individuals and institutions in Africa and beyond. The Centre's website, with information available in English and French, has added new interactive features and information on the Centre's expertise and on current projects.

G. Cooperation and partnerships with Member States, regional and subregional organizations and other entities

27. Many African States have designated a focal point within Ministries of Foreign Affairs to interact with the Centre in order to enhance cooperation, including by facilitating the assistance provided by the Centre, in response to requests from States.

28. The Centre continued to provide substantive support to regional and subregional organizations, such as the African Union-Regions Steering Committee, and to civil society organizations, on different aspects related to the control of small arms and light weapons. The Centre supported two meetings of the African Union-Regions Steering Committee on Small Arms and Light Weapons, held in November 2012 and February 2013, on a coordinated approach to address the challenges posed by such weapons. The Centre continued its partnerships with the Friedrich-Ebert Foundation, the Institute for Security Studies, the Kofi Annan International Peacekeeping Training Centre and the office of UNDP in Togo. The partnerships have served as frameworks for many of the activities carried out during the reporting period.

IV. Operational situation

A. Financial situation

29. Pursuant to General Assembly resolution 40/151 G, the Regional Centre was established on the basis of existing resources and voluntary contributions. During the reporting period, voluntary contributions to the trust fund for the Centre were received in the amount of $785,648. Information on the status of the trust fund for

the Centre from July 2012 to June 2013 is contained in the annex to the present report.

30. The Secretary-General wishes to express his gratitude to the Governments of Australia, Germany, the Netherlands, New Zealand and Togo for their contributions and to the Government of Finland for supporting the cost of a United Nations Volunteer at the Regional Centre. The Secretary-General would also like to thank the European Union, the office of UNDP in Togo, the National Commission on Small Arms of Côte d'Ivoire, the International Action Network on Small Arms and the Friedrich-Ebert Foundation for their collaboration with and support for the Centre's activities during the reporting period, including through in-kind contributions.

B. Staffing

31. A new Director (P-5) for the Centre was appointed in March 2013. Currently, the posts of the Director, one Political Affairs Officer and two support staff are funded from the regular budget of the United Nations.

32. In addition, funding from Finland has allowed for a security sector reform expert, as an international United Nations Volunteer, to work with the Centre for a two-year duration, as of May 2012. Projects and project staff are funded through voluntary contributions.

V. Conclusion

33. During the reporting period, the Regional Centre continued to support Member States in disarmament, security and peace initiatives and collaborated with several partners. The Centre strengthened its role at the continental level, creating networks and partnerships at both the pan-African and the African subregional levels.

34. Furthermore, the Centre benefited from the synergies it has established with United Nations agencies, funds and programmes and the partnerships it has maintained with various non-governmental organizations and other institutions. This approach has helped in developing an extended network of expertise in the field of disarmament, peace and security. The ability of the Centre to coordinate with other institutions and to draw on lessons learned and best practices from the other regional centres in Latin America and the Caribbean and in Asia and the Pacific have proven to be salutary to its institutional growth. These trends will continue as part of the Centre's efforts to maximize the utilization of resources and expertise through cooperation and cross-fertilization of experiences.

35. Requests from Member States and intergovernmental organizations in Africa for technical cooperation, assistance and sharing of expertise have continued to increase and they need to be matched by adequate and sustainable funding. The Centre has developed a fundraising strategy and a portfolio of new project proposals to ensure the financial sustainability of its activities. The project proposals are based on the requests received for assistance and reflect the realities on the ground: addressing the challenges of implementing legal disarmament instruments and norms; building the capacities of law enforcement officers; strengthening civil society; harmonizing legislation and building the capacities of the legislative bodies;

reducing armed violence and collecting weapons in fragile societies. The Secretary-General wishes to encourage Member States and other donors to make financial contributions towards the continued operation of the Regional Centre.

Annex

Status of the trust fund for the United Nations Regional Centre for Peace and Disarmament in Africa for 2012

(In United States dollars)

Reserves and fund balance, as at 1 January 2012	150 970
Income	
Voluntary contributions	785 648[a]
Funds received under inter-organization arrangements	97 740[b]
Interest income	3 765
Other/miscellaneous income	27 610[c]
Total income	**914 763**
Expenditure	764 689
Programme support costs	94 212
Total expenditure	**858 901**
Reserves and fund balance, as at 31 December 2012	**206 832**[d]

[a] During the reporting period contributions totalling $785,648 were received from Australia ($754,608) and Togo ($31,040).

[b] Funds received from the United Nations Development Programme.

[c] Represents cancellations of obligations from the prior period ($24,432) and a related adjustment in programme support costs ($3,178).

[d] Consists of reserves and fund balance as at 1 January 2012, plus income received in 2012 less expenditures incurred during the year. During the period from 1 January to 31 May 2013 an additional contribution of $360,362 was received from: Australia ($50,000), Germany ($179,347), the Netherlands ($80,000), New Zealand ($19,975) and Togo ($31,040).

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Item 82 of the preliminary list*
Diplomatic protection

Diplomatic protection

Comments and information received from Governments

Report of the Secretary-General

I. Introduction

1. The International Law Commission adopted the draft articles on diplomatic protection at its fifty-eighth session, in 2006.[1] In its resolution 61/35, the General Assembly took note of the draft articles as adopted by the Commission and invited Governments to submit comments concerning the Commission's recommendation that the Assembly elaborate a convention on the basis of the articles.[2] By its resolution 62/67, the Assembly commended the articles on diplomatic protection presented by the Commission, the text of which was annexed to the resolution, to the attention of Governments and invited them to submit any further comments concerning the recommendation by the Commission to elaborate a convention on the basis of the articles in writing to the Secretary-General. The Assembly decided to further examine, at its sixty-fifth session in 2010, within the framework of a working group of the Sixth Committee, in the light of the written comments of Governments,[3] as well as views expressed in the debates held at the sixty-second session of the Assembly, the question of a convention on diplomatic protection or any other appropriate action on the basis of the above-mentioned articles.

2. In its resolution 65/27, the General Assembly recalled its resolution 62/67 and the decision of the International Law Commission to recommend to the Assembly the elaboration of a convention on the basis of the articles on diplomatic protection. It also emphasized the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations and noted that the subject of diplomatic protection

* A/68/50.

[1] See A/61/10, para. 49.

[2] See A/62/118 and Add.1.

[3] See A/65/182 and Add.1.

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was of major importance in relations between States. The Assembly commended once again the articles on diplomatic protection to the attention of Governments and decided to include in the provisional agenda of its sixty-eighth session the item entitled "Diplomatic protection" and, within the framework of a working group of the Sixth Committee, in the light of the written comments of Governments, as well as views expressed in the debates held at the sixty-second and sixty-fifth sessions of the Assembly, to further examine the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the articles and to identify any difference of opinion on the articles.

3. In the same resolution, the General Assembly invited Governments to submit in writing to the Secretary-General any further comments, including comments concerning the recommendation by the International Law Commission to elaborate a convention on the basis of the articles on diplomatic protection. By a note verbale dated 28 March 2011, the Secretary-General invited Governments to submit those comments no later than 1 June 2013. The Secretary-General reiterated that invitation by a note verbale dated 14 March 2012.

4. As of 26 June 2013, the Secretary-General had received written comments from Lebanon, the Philippines and Poland. Those comments are reproduced below, organized according to comments on any future action regarding the articles on diplomatic protection (section II) and on the articles on diplomatic protection themselves (section III).

II. Comments on any future action regarding the articles on diplomatic protection

Philippines

[Original: English]
[28 June 2011]

The Philippines has no objection to the negotiation of a convention on diplomatic protection.

Poland

[Original: English]
[3 June 2013]

The articles reflect the development of the institution of diplomatic protection in contemporary international relations. Diplomatic protection substantially supplements the existing universal and regional human rights protection treaty mechanisms. Since the articles contain new elements of progressive development of international law, it is suggested that they become a reference point for State practice and for developing international case law to reaffirm the existing law until sufficient support is generated for the idea of codifying them in an international treaty.

Poland recommends the continuation of the work on the articles in the General Assembly, along with the articles on the responsibility of States for internationally wrongful acts, since both legal instruments are closely linked and the articles on diplomatic protection do not regulate all the issues which are important for the exercise of this right by the State.

III. Comments on the articles on diplomatic protection

Philippines

[Original: English]
[28 June 2011]

There is no provision in the articles regarding the period to exercise diplomatic protection. There is no provision as to whether the exercise of the right may be barred by prescription, estoppel or laches. The exercise of the right being discretionary, and since the essence of the agreement is the exercise of a right, a time element should be provided, as it will be unfair and prejudicial on the part of the respondent State if the claimant State invokes the right only after a considerable length of time following the date of the injury.

The articles on diplomatic protection are closely connected with the articles on Responsibility of States for Internationally Wrongful Acts. Many of the principles contained in the articles on Responsibility of States for Internationally Wrongful Acts are relevant to diplomatic protection and are therefore not repeated in the present articles. Article 1 of the articles on diplomatic protection mentions "internationally wrongful" acts as the cause of the injury to a person by which the State of nationality of said person may invoke diplomatic protection, but there is no definition or enumeration of "internationally wrongful" acts within the document. The articles are concerned only with the rules governing the circumstances in which diplomatic protection may be exercised and the conditions that must be met before it may be exercised. They do not seek to define or describe the internationally wrongful acts that give rise to the responsibility of the State for injury to an alien.

Lebanon

[Original: Arabic]
[14 July 2011]

Lebanon is of the view that the concept of "diplomatic protection" as it appears in the articles does not have a defined framework and requires clarification. The concept of "internationally wrongful" acts is also not clearly delineated, and whether the wrongfulness in question derives from either multilateral or bilateral international agreements, from international jurisprudence, from the general principles of international law, or from international customary law should be clarified.

The articles do not give any practical or legal effect to the granting or withholding of diplomatic protection. They also do not specify the legal consequences for persons or assets granted such protection.

The elements of nationality are not based on objective standards, especially with regard to what is called "predominant nationality" and the basis on which that nationality is defined.

The articles do not use terms customary in international law, such as "*al-muhla al-ma'qulah*" (reasonable delay).

Further explanation is required of certain expressions appearing in article 15, including the following: "reasonably available"; "undue delay"; "no relevant connection"; and "manifestly precluded". In the Arabic translation of the articles, the word *almutadarrar* should be used instead of *almadrur* to denote an "injured person" and the word *ta'wid* should be used instead of *jabr* to denote "redress".

Poland

[Original: English]
[3 June 2013]

Poland welcomes the articles on diplomatic protection adopted by the International Law Commission in 2006. Special acknowledgement should be made to John Dugard, Special Rapporteur of the Commission, for his involvement in the drafting, in such a short time, of the articles, which play a significant role in contemporary relations.

The articles codify customary international law with respect to diplomatic protection and contain provisions manifesting the progressive development of international law. Diplomatic protection is a right that a State exercises by resorting to diplomatic action or other peaceful means of settling disputes to seek the responsibility of another State for injury caused by an internationally wrongful act committed by such State against a natural or legal person of the other State. The International Law Commission rightly concluded that a State may not seek responsibility for injury resulting from an internationally wrongful act by resorting to the threat or use of force against the territorial integrity or independence of any State, as stated in Article 2, paragraph 4, of the Charter of the United Nations.

Poland supports the development of the institution of diplomatic protection in the articles, seeing it as a human rights protection instrument. Diplomatic protection is an important instrument of customary international law exercised by States to ensure the protection of their nationals' rights abroad based on a universally accepted international law standard for the treatment of aliens. In contemporary international relations, this standard provides for the respect of human rights and fundamental freedoms as set out in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, as well as in other universal and regional agreements. The United Nations Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, adopted by the General Assembly in its resolution 40/144 of 13 December 1985, reaffirms the application of human rights that are guaranteed by international law with respect to aliens. In its judgment in the case of *Ahmadou Sadio Diallo (Republic of Guinea v. the Democratic Republic of the Congo)* of 2007, the International Court of Justice clearly stated that "the standard of treatment of aliens" covers, "inter alia, ... guaranteed human rights". The exercise of diplomatic

protection in the event that another State violates guaranteed human rights means that the scope *ratione materiae* of diplomatic protection in contemporary international relations has been significantly extended. It should also be noted that diplomatic protection supplements rather than replaces other human rights protection instruments, in particular when such mechanisms are not available or are ineffective.

In order to ensure the proper exercise of diplomatic protection, a clear distinction should be made between diplomatic and consular protection. The commentaries on the articles should clearly identify situations in which diplomatic protection should be exercised, as distinguished from consular protection, to avoid misunderstandings and tensions between States in the process of their implementation.

In line with States' universal practice, the exercise of diplomatic protection is based on a bond of nationality that links a national to the State. The International Law Commission has rightly assumed in the articles that the holding of nationality by a person injured as a result of a wrongful act committed by another State is sufficient. However, the requirement of an effective bond of nationality may not represent an additional requirement for the exercise of diplomatic protection. In article 4, the Commission indicated the succession of States as one of the premises for acquiring nationality. However, it should be noted that nationality is not acquired through succession of States, but as a consequence of the succession of States. In the case of a succession of States, different premises may be applied for acquiring nationality. The article should be revised to reflect this point.

The articles extend the scope *rationae personae* of diplomatic protection to persons holding double or multiple nationalities and to stateless persons and refugees. In addition, they give the flag State the right to seek redress for the ship's crew, irrespective of the nationality they hold, if their injury results from an internationally wrongful act. This proposal put forward by the International Law Commission, which expresses progressive development of international law, merits support. In an increasingly globalized economy and with frequent migration flows, extending the catalogue of subjects eligible for diplomatic protection, as justified by the case law of international courts, will contribute to ensuring the free movement of persons, goods, capital and services across borders, and would limit the number of situations in which aliens would be deprived in the receiving State of legal protection on formal grounds. Article 7 rightly recognizes the criterion of predominant nationality which determines the exercise of diplomatic protection by one State of nationality against another State of nationality. This criterion was reflected in the most recent international instruments; it has been sustained in the judgements of international and arbitration courts. It also follows from the domestic law of most States. In article 8, the adoption of the criterion of lawful and habitual residence to the exercise of diplomatic protection in respect of stateless persons and refugees raises no objections.

Poland supports the insertion in article 19 of the rule that a State, in exercising diplomatic protection, should take into consideration the rights and interest of a national who was injured as a result of an internationally wrongful act committed by another State. The State should also give due consideration to the possibility of exercising diplomatic protection, especially if a significant injury has occurred; it should take into account, whenever feasible, the views of injured persons with

regard to the resort to diplomatic protection and the reparation to be sought. The State should also take into account the possibility of transferring to the injured person any compensation obtained for the injury from the responsible State subject to any reasonable deductions. Granting rights to individuals in the procedure of exercising diplomatic protection would limit the discretionary role of the State and would contribute to greater effectiveness of this institution.